APPENDIX.

[Vide item V on page 293 supra.]

(L.A. BILL No. 5 OF 1960.)

As passed by the Assembly

A Bill to provide for the regulation of chit funds in the State of Madras.

WHEREAS it is expedient to provide for the regulation of chit funds in the State of Madras;

BE it enacted in the Twelfth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras Chit Funds Act, 1961.

(2) It extends to the whole of the State of Madras.

(3) It shall come ino force on such date as the Government may, by notification, appoint, and different dates may be appointed for different areas and for different provisions of this Act.

2. *Definitions.*—In this Act, unless the context otherwise requires.—

(1) " approved bank " means a bank approved by the Government;

(2) " chit " means a transaction whether called chit fund, chit, kuri, or, by any other name, by which its foreman enters into an agreement with a number of subscribers that every one of them shall subscribe a certain sum or a certain quantity of grain by instalments for definite period and that each subscriber in his turn as determined by lot or by auction or by tender or in such other manner as may be provided for in the agreement, shall be entitled to a prize amount;

Explanation.—A transaction is not a chit within the meaning of this clause, if in such transaction—

(*a*) some alone, but not all, of the subscribers get the prize amount without any liability to pay future subscriptions; or

(*b*) all the subscribers get the whole of the chit amount by turns with a liability to pay future subscriptions.

Illustration.—There are 100 subscribers to a chit and the subscription by each of them is Rs. 10. All the subscribers get by turns Rs. 1,000, being the whole of the chit amount and are liable to pay future subscriptions. The transaction falls within clause (*b*) of the above Explanation and is not a chit;

(3) " chit agreement " means a document containing the articles of agreement between the foreman and the subscribers relating to the chit;

(4) " chit amount " means the sum total of the subscriptions payable by all the subscribers for any instalment of a chit without and deduction for discount or oherwise;

(5) " defaulting subscriber " means a subscriber who has defaulted in the payment of subscriptions due according to the terms of the chit agreement;

(6) " discount " means the sum or the quantity of grain, which a prized subscriber has under the terms of the chit agreement to forego and which is set apart under the said agreement to meet the expenses of running the chit or for distribution among the subscribers or for both;

(7) "divided " means the share of a subscriber in the discount available under the chit agreement for rateable distribution among the subscribers at each instalment of the chit;

(8) " drawing " means ascertaining of the person or persons entitled to the prize amount at any instalment of a chit;

(9) " firm " means a firm regisered under the Indian Partnership Act, 1932 (Central Act IX of 1932);

(10) " foreman " means the person who under the chit agreement is responsible for the conduct of the chit and includes any other person discharging the functions of the foreman under section 30;

Provided that no firm shall be a foreman unless such firm is registered under the Indian Partnership Act, 1932 (Central Act IX of 1932);

(11) " Government " means the State Government;

(12) " non-prized subscriber " does not include a subscriber who has defaulted in the payment of subscriptions due according to the terms of the chit agreement;

(13) " prize amount " means the difference between the chit amount and the discount, and, in the case of a fraction of a ticket means the difference between the chit amount and the discount proportionate to the fraction of the ticket; and when the prize amount is payable otherwise than in cash, the value of the prize amount shall be value at the time it becomes payable;

(14) " prized subscriber " means a subscriber who has either received or is entitled to the prize amount;

(15) " Registrar " means a Registrar appointed under sub-section (1) of section 51;

(16) " subscriber " includes a person who holds a fraction of a ticket and also a transferee of a ticket or a fraction thereof by assignment in writing or by operation of law;

(17) " ticket " means the share of a subscriber in a chit.

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CHAPTER II.

CONSTITUTION AND REGISTRATION.

3. *Registration of by-laws.*—(1) Save as otherwise provided in this Act, no person shall start or conduct any chit unless he had registered with the Registrar the proposed by-laws of the chit.

(2) For the purpose of registration, there shall be filed with the Registrar the by-laws of the chit in duplicate signed by the foreman and attested by at least two witnesses.

(3) The Registrar, on being satisfied that the by-laws are not contrary to this Act or to the rules made thereunder, shall issue to the foreman a certificate of registration and such certificate shall be conclusive evidence that the by-laws of the chit therein mentioned are duly registered.

(4) The Registrar shall retain the by-laws of the chit and return the duplicate of the by-laws to the foreman with an endorsement that the by-laws have been registered.

4. *Prohibition of invitation for subscription to chit of which by-laws have not been registered.*—No person shall issue or publish any notice, circular, prospectus or other document containing the terms and conditions of any chit or inviting the public to subscribe for tickets in any chit unless such notice, circular, prospectus or other document, relates to a chit, the by-laws of which have been registered.

5. *Form of chit agreement.*—Every chit agreement shall be in duplicate and shall be signed by the subscribers or by persons authorised in that behalf in writing by the subscribers, and the foreman and attested by at least two witnesses, and it shall contain the following particulars, namely :—

(1) The full name and the permanent residential address of every subscriber;

(2) the tickets held by each subscriber;

(3) the number of instalments and the amount payable in respect of each ticket for each instalment;

(4) the dates of commencement and termination of the chit;

(5) the mode of ascertaining the prized subscriber;

(6) the amount of discount which the prized subscriber as any instalment has to forego;

(7) the mode and proportion in whcih the discount is distributable by way of dividend, foreman's commission and other expenses, if any;

(8) the date, time and place at which the chit is to be drawn;

(9) if under the chit agreement the foreman is entitled to the chit amount, the instalment at which the foreman is to get the chit amount;

(10) the approved bank or banks in which chit moneys shall be deposited by the foreman under the provisions of this Act;

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(11) the manner in which a chit shall be continued, where a foreman who is an individual dies or becomes of unsound mind; and

(12) any other particulars which may be prescribed.

Explanation.—It is sufficient to get the signature of each subscriber on separate copies of the agreement.

6. *Filing of chit agreement.*—(1) Every chit agreement with its duplicate shall be filed with the Registrar.

(2) The Registrar shall retain the chit agreement and return the duplicate chit agreement to the foreman with an endorsement that the chit agreement is filed.

7. *Commencment of chit business.*—(1) No person shall commence any auction or drawing of any chit unless he has obtained a certificate of commencement from the Registrar.

(2) The Registrar shall, on being satisfied that the by-laws of the chit have been registered and the chit agreement has been filed and the security required under section 12 has been furnished by the foreman, grant a certificate of commencement.

8. *Copies of by-laws and chit agreement to be given to subscribers.*—(1) The foreman shall, as soon as may be after he has obtained the certificate of commencement referred to in section 7, but not later than the date of the first drawing of the chit, furnish to every subscriber a copy of the by-laws of the chit and of the chit agreement certified by him to be a true copy.

(2) The foreman shall, within the fifteenth day of the month succeeding the month in which the first instalment of the chit is drawn, file with the Registrar a certificate to the effect that he has complied with the provisions of sub-section (1).

9. *Alteration of chit agreement.*—The chit agreement shall not be altered, added to or cancelled except with the consent in writing of the foreman and all the subscribers to the chit.

10. *Minutes of proceedings.*—(1) Minutes of the proceedings of every drawing shall be drawn up and entered in a book to be kept for that purpose and shall be signed by the foreman and all the subscribers present. It shall also be signed by the prized subscriber or his authorized agent.

(2) Such minutes shall state clearly—

(i) the date and hour when the proceedings began and ended and the place where the drawing was held;

(ii) the number of the particular instalment of the chit of which proceedings are recorded:

(iii) the names of the subscribers present:

(iv) the person or persons who become entitled to the prize amount in the particular instalment;

(v) the amount of discount;

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(vi) full particulars regarding the disposal of the prize amount in respect of the preceding instalment and disposal of unpaid prize amount, if any, in respect of any previous instalment; and

(vii) any other particulars which may be prescribed.

11. *Copy of minutes to be filed with the Registrar.*—Every foreman shall, within the fifteenth day of the month succeeding the month in which one or more instalments of the same chit or one or more instalments of any other chit are drawn, file with the Registrar a copy of the minutes referred to in section 10 in respect of the drawings at all such instalments and certified by the foreman to be a true copy.

CHAPTER III.

FOREMAN.

12. *Security to be given by foreman.*—(1) For the proper conduct of the chit every foreman shall, before applying for the certificate of commencement under section 7,—

(a) execute an indenture of mortgage and trust in favour of the Registrar as trustee charging by way of security property sufficient to the satisfaction of the Registrar for the realisation of the chit amount; or

(b) (i) deposit in any approved bank an amount of cash not less than half of the chit amount, or

(ii) invest in Government securities of the face value or market value, whichever is less, of not less than half of the chit amount,

and transfer the amount so deposited or the Government securities in favour of the Registrar to be held in trust by him as security :

Provided that, where movable property is charged by way of security, only such kind of movable property as may be prescribed shall be so charged and such movable property shall be deposited in such manner and with such person or officer as may be prescribed.

(2) Where a foreman conducts more than one chit, he shall furnish security in accordance with the provisions of sub-section (1) in respect of each such chit.

(3) Subject to the provisions of section 520 of the Companies Act, 1956 (Central Act I of 1956), the security given by the foreman under sub-section (1) shall not be liable to be attached in execution of a decree or otherwise—

(i) until the chit is terminated and the claims of all the subscribers are fully satisfied;

(ii) until all dues payable by the foreman under this Act to the Registrar or any other officer have been paid;

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(iii) where owing to the default of the prized subscriber the prize amount due remains unpaid even after the termination of a chit until the foreman deposits such amount in an approved bank mentioned in the chit agreement and intimates in writing the fact of such deposit to the prized subscriber.

(4) The Registrar shall, after the termination of a chit and after satisfying himself that the requirements under clauses (i) to (iii) of sub-section (3) have been complied with, release the property charged by way of security or order the release of the cash security or the Government securities referred to in sub-section (1) and in so doing, he shall follow such procedure as may be prescribed.

(5) The Registrar may, on the application of any foreman, instead of releasing the security under sub-section (4), accept the same as security in respect of any other chit or chits conducted by the same foreman. If the value or amount of the security so accepted is less than the value or amount specified in sub-section (1), the Registrar shall require the foreman to furnish additional security to make up the deficiency. If the value or amount of such security is in excess of the value or amount required, the Registrar shall release such excess.

(6) Notwithstanding anything to the contrary contained in any other law, the security furnished under this section shall not be dealt with by the foreman during the currency of the chit and any dealing by the foreman with respect thereto by way of transfer, charge, mortgage or other encumbrance shall be void.

13 *The rights of the foreman.*—The foreman shall be entitled—

(*a*) in the absence of any provision in the chit agreement to the contrary, to obtain the chit amount at the instalment specified in the chit agreement;

(*b*) to such commission or remuneration not exceeding five per cent of the chit amount as may be fixed in the chit agreement;

(*c*) to receive and realise all contributions from the subscribers and to distribute the prize amounts to prized subscribers and the dividend among the subscribers;

(*d*) to demand sufficient security from any prized subscriber for the due payment of future subscriptions;

(*e*) to substitute subscribers in the place of defaulters; and

(*f*) to do all other acts that may be necessary for the due and proper conduct of the chit.

14. *The duties of the foreman.*—(1) The foreman shall, on the prized subscriber furnishing sufficient security for the due payment of future subscriptions, be bound to pay him the prize amount:

Provided that the prized subscriber shall be entitled to demand immediate payment of the prize amount after deducting all future subscriptions without any security whatsoever, and in such case the foreman shall, before the date of the next succeeding instalment, deposit in an approved bank mentioned in the chit

agreement the amount of future subscriptions deducted as aforesaid and he shall not withdraw the amount so deposited except for payment of future subscriptions.

(2) If owing to the default of the prized subscriber the prize amount due in respect of any drawing remains unpaid before the date of the next succeeding drawing, the foreman shall deposit the same forthwith in an approved bank mentioned in the chit agreement and intimate in writing the fact of such deposit to the prized subscriber.

(3) Every payment of the prize amount, the deposit of the amount of future subscriptions under sub-section (1) and the deposit of the prize amount under sub-section (2) shall be intimated to the subscribers at the next succeeding drawing, and particulars of such payment or deposit entered in the minutes of the proceedings of that drawing.

(4) The foreman shall not appropriate for himself any amount in excess of what he is entitled to under clauses (*a*) and (*b*) of section 13 :

Provided that the foreman may appropriate for himself the interest accruing on the amount deposited under the proviso to sub-section (1).

15. *Registers and books of account.*—The foreman shall keep such registers and books of account, and in such form, as may be prescribed.

16. *Balance-sheet.*—(1) Every foreman shall prepare and file with the Registrar in such manner and within such time as may be prescribed, a balance-sheet duly audited either by auditors duly qualified to act as auditors of companies under the Companies Act, 1956 (Central Act I of 1956), or by a Chit Auditor appointed under sub-section (2) of section 51 and relating to the period of account.

(2) The balance-sheet referred to in sub-section (1) shall—

(*a*) contain a summary of the assets and liabilities of the chit; and

(*b*) give such particulars as will disclose the nature of the assets and liabilities and how the value of the assets has been arrived at.

17. *Liability of the foreman to the subscribers.*—(1) Every foreman shall be liable to account to the subscribers for the amounts due to them.

(2) Where there are more than one foreman each one of them jointly and severally or if the foreman is a firm, each one of the partners thereof jointly and severally and if the foreman is a Corporation, the Corporation as such shall be liable to the subscribers in respect of the obligations arising out of the chit.

18. *Withdrawal of a foreman.*—Where there are more than one person as foreman in a chit, none of them shall withdraw from it until the termination of the chit unless such withdrawal is

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assented to by all the non-prized subscribers and unpaid prized subscribers and a copy of such assent has been filed as required by section 32. Such withdrawal shall not, however, affect the security given under section 12.

CHAPTER IV.

NON-PRIZED SUBSCRIBERS.

19. *Non-prized subscriber to pay subscription and get receipt.*—Every non-prized subscriber shall pay his subscription at the time and place mentioned in the chit agreement and shall on such payment be entitled to get a receipt from the foreman.

20. *Removal of defaulting subscribers.*—(1) A non-prized subscriber who defaults in paying his subscription in accordance with the terms of the chit agreement shall be liable to have his name removed from the list of subscribers. Every such removal shall with the date thereof, be entered in the relevant book maintained by the foreman. A written notice of such removal shall be given by the foreman to the defaulting subscriber within fourteen days of such removal.

(2) A true copy of the entry referred to in sub-section (1) shall be filed by the foreman with the Registrar within fourteen days from the date of such removal.

(3) Any defaulting subscriber aggrieved by the removal of his name from the list of subscribers may, within seven days of the communication to him of the notice of removal, appeal to the Registrar.

(4) The Registrar may, after giving the parties an opportunity of being heard, pass such orders on the appeal as he thinks fit and the decision of the Registrar shall be final.

21. *Substitution.*—(1) The foreman may substitute in the list of subscribers any person in the place of a defaulting subscriber whose name has been removed from such list under sub-section (1) of section 20 :

Provided that no such substitution shall be made until the expiry of the period allowed for appeal under sub-section (3) of section 20, or where any such appeal has been preferred, until the same has been disposed of.

(2) Every substitution referred to in sub-section (1) shall, with the date thereof, be entered in the relevant book maintained by the foreman. A true copy of every such entry shall be filed by the foreman with the Registrar within fourteen days from the date of substitution.

(3) All arrears of subscriptions realised from the substituted subscriber, less any amount advanced by the foreman, shall, before the date of the next succeeding instalment, be deposited by the foreman in an approved bank mentioned in the chit agreement. The foreman shall not withdraw the amount so deposited except for payment to the defaulting subscriber.

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22. *Amount due to defaulting subscriber how dealt with.*—When a substituted subscriber draws the prize amount, the defaulting subscriber shall be entitled to recover from the foreman his contributions subject to such deductions as may be provided for in the chit agreement. The foreman shall, on demand made by the defaulting subscriber and on his executing an acknowledgment duly signed, be bound to pay to the defaulting subscriber the amount due to him before the date of the next succeeding instalment. If the defaulting subscriber fails to furnish the acknowledgment as aforesaid, the forman shall, before the date of the next succeeding instalment, deposit in an approved bank the amount due to the defaulting subscriber. The amount so deposited shall not be withdrawn by the foreman for any purpose other than for payment to the defaulting subscriber.

CHAPTER V.

PRIZED SUBSCRIBERS.

23. *Prized subscriber to give security.*—Before receiving the prize amount without deducting all future subscriptions, every prized subscriber shall furnish and the foreman shall take sufficient security for the due payment of future subscriptions and if the foreman is the prized subscriber, he shall give security for the due payment of future subscriptions to the satisfaction of the Registrar.

24. *Prized subscriber to pay the subscription regularly.*—Every prized subscriber shall pay his subscriptions regularly at the time and place and on the date mentioned in the chit agreement and on his failure to do so, he shall be liable to make a consolidated payment of all the future subscriptions at once.

25. *Foreman to demand future subscriptions by written notice.*—(1) A foreman shall not be entitled to claim consolidated payment of all the future subscriptions from a defaulting prized subscriber unless he shall have demanded the same in writing.

(2) If in a suit by a foreman for consolidated payment of future subscriptions from a defaulting prized subscriber, the defendant pays into court on or before the date to which the suit is posted for hearing the arrears of subscriptions till that date together with interest thereon at the rate provided for in the chit agreement or at twelve per cent per annum simple interest whichever is lower, and the costs of the suit for payment to the plaintiff, then, notwithstanding any contract to the contrary, the court shall pass a decree directing that the defendant shall deposit in court for payment to the plaintiff, the future subscriptions on or before the dates on which they fall due and that, in default of payment by the defendant of any future subscription on or before the due date, the plaintiff shall be at liberty to realize in execution all the future subscriptions and interest thereon, less the amount, if any already deposited by the defendant :

Provided that if any such suit is upon a promissory note, no decree shall be passed under this sub-section unless such promissory note expressly state that the amount due under the promissory note is towards payment of subscriptions to the chit.

(3) Any person who holds an interest in the property furnished as security or any part thereof shall be entitled to make payment under sub-section (2).

(4) All consolidated payments of future subscriptions realized by a foreman shall be deposited in an approved bank before the date of the next succeeding instalment. The amount so deposited may be withdrawn only for payment of future subscriptions. When any property is acquired in lieu of the consolidated payment, it shall remain as security for the due payment of future subscriptions.

CHAPTER VI.

TRANSFER.

26. *Restrictions on transfer of right of foreman.*—(1) No transfer of the rights of a foreman to receive subscriptions from prized subscribers shall be made without the previous sanction in writing of the Registrar.

(2) Any such transfer of the rights of a foreman to receive subscriptions from a prized subscriber shall, if it is likely to affect prejudicially the interest of any non-prized subscriber or unpaid prized subscriber, be set aside on application by such subscriber to such officer as may be empowered by the Government in this behalf.

(3) When under sub-section (2) a transfer is disputed by a subscriber, the burden of proving that the foreman was in solvent circumstances at the time of the transfer and that the transfer is not likely to affect prejudicially the interest of any such subscriber is upon the transferee.

27. *Transfer of non-prized subscriber's rights to be in writing.*—Every transfer by a non-prized subscriber of his rights in the chit shall be in writing duly attested by at least two witnesses and shall be filed with the foreman.

28. *Recognition of transfer by the foreman.*—Every transfer under section 27 shall be recognized by the foreman, unless the transferee is not solvent or the transfer was effected with a view to defeat the provisions of any law.

29. *Entry of transferee's name in the book.*—Every transfer made under section 26 or section 27 shall be entered by the foreman in the books of the chit forthwith and a true copy of such entry shall be filed by the foreman with the Registrar within fourteen days from the date of such entry.

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CHAPTER VII

TERMINATION OF CHITS

30. *Provisions for continuation of chits in certain cases.*—Where the foreman who is an individual dies or becomes of unsound mind the chit may be continued in accordance with the provisions of the chit agreement.

31. *Termination of chit.*—A chit shall be deemed to have terminated—

(*a*) when the period fixed in the chit agreement has expired, provided payment of dues to all the subscribers has been completed; or

(*b*) when all the non-prized and unpaid prized subscribers consent in writing to the termination of the chit and a copy of such consent is filed as required by section 32; or

(*c*) when a foreman, who is an individual, dies or becomes of unsound mind and the chit is not continued in accordance with the provisions of the chit agreement:

Provided that in the case of a foreman which is a firm, if a partner dies or becomes of unsound mind, the chit shall not be deemed to have terminated and the surviving partner or partners shall conduct the chit in the absence of any provision to the contrary in the chit agreement.

32. *Copy of assent or consent to be filed with the Registrar.*—A true copy of every assent mentioned in section 18 and of every consent mentioned in section 31, with the date of such assent or consent shall be filed by the foreman or by the remaining foreman or foremen, as the case may be, with the Registrar within fourteen days from the date of such assent or consent.

33. *Refund of non-prized subscriber's contributions.*—Except in the cases referred to in clauses (*a*) and (*b*) of section 31—

(*a*) every non-prized subscriber shall, unless otherwise provided for in the chit agreement, be entitled to get back his contribution at the termination of the chit without deduction for dividend, if any, received by him:

Provided that any person to whom the rights of a non-prized subscriber are transferred under sections 27, 28 and 29 shall, in addition to his own contributions, be entitled to get back the contribution made by such non-prized subscriber, subject to the conditions specified in this clause;

(*b*) if the chit terminates on a date earlier than the date originally fixed in the chit agreement, the non-prized subscriber's claim shall be deemed to have arisen on the date on which he has notice thereof.

34. *Subscribers' dues to be first charge on chit assets.*—Where there are debts due from the foreman of a chit in relation thereto and also other debts due from such foreman, the chit debts due to the subscribers shall be a first charge on the chit assets.

CHAPTER VIII.

INSPECTION OF DOCUMENTS.

35. *Foreman to allow subscriber to examine chit records.*—Every foreman shall, on payment of such fee not exceeding five rupees as may be specified in the chit agreement, allow non-prized and unpaid prized subscribers all reasonable facilities on all days of drawing of chits or on such days and within such hours as may be provided for in the chit agreement for the inspection of security bonds and documents, receipt and other records taken from the prized subscribers or furnished by the foreman himself in his capacity as a subscriber and all chit records including books of account and pass books, the balance sheets and profit and loss accounts and such other records as may show the actual financial position of the chit scheme.

36. *Preservation of chit records by foreman.*—All the records pertaining to a chit shall be preserved intact by the foreman and kept for a period of six years from the date of the termination of the chit.

37. *Inspection of chit books and records.*—(1) (*a*) The Registrar; or

(*b*) any officer authorized by the Director of chits in this behalf,

may inspect the chit books and all records after giving due notice in writing to the foreman.

(2) Every foreman shall be bound to produce the chit books and records before the Registrar or the officer authorized under sub-section (1) at the time and place mentioned in the notice and shall furnish such information to him as he may require:

Provided that such inspection may be made at the premises of the foreman if he pays in advance such fees as may be prescribed for the inspection:

Provided further that if the foreman is a banking company as defined in the Banking Companies Act, 1949 (Central Act X of 1949), such inspection shall be made only at the premises of the company and only on a working day and such foreman shall pay such fees as may be prescribed for the inspection.

CHAPTER IX.

WINDING UP OF CHITS.

38. *When chit may be wound up.*—A chit registered in the Presidency-town may be wound up by the Madras City Civil Court and a chit registered elsewhere may be wound up by the District Court having jurisdiction over the place where the chit has been registered—

(*a*) if the chit has terminated under clause (*c*) of section 31, or

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(b) if the foreman fails to give the security specified in section 12 or if he commits any such acts in respct thereto as are calculated to impair materially the nature of the security or the value therof, or

(c) if he fails to deposit the chit moneys in accordance with the provisions of this Act, or

(d) if it is proved to the satisfaction of the court that the foreman is unable to pay the amounts due to the subscribers, or

(e) if execution or other process issued on a decree or order of any court in favour of any subscriber in respect of amounts due to him from the chit is returned unsatisfied in whole or in part, or

(f) if it is proved that there has been fraud or collusion on the part of the foreman in the matter of taking securities from prized subscribers, or

(g) if the foreman has appropriated the prize amount in his capacity as a subscriber without furnishing sufficient security for future subscriptions, or

(h) if it is just and equitable that the chit should be wound up.

Explanation.—For the purposes of clause (d), in determining whether the forman is unable to pay the amounts due to the subscribers, the court shall take into account his contingent and prospective liabilities in respect of the chit :

Provided that a chit conducted by a company within the meaning of the Companies Act, 1956 (Central Act I of 1956), shall be wound up only by the court having jurisdiction under that Act.

39. *Winding up application.*—The application to the court for the winding up of a chit shall be by a petition presented by any non-prized subscriber or unpaid prized subscriber or by the Registrar, signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (Central Act V of 1908), and shall contain such particulars as may be prescribed :

Provided that no application for the winding up of a chit under clauses (d) and (h) of section 38 shall lie unless such petition is presented—

(a) by those non-prized subscribers and those unpaid prized subscribers whose subscriptions to the chit amount in the aggregate to at least twenty-five per cent of the amounts contributed by all the non-prized subscribers and unpaid prized subscribers; or

(b) with the previous sanction of the Government.

Explanation.—For the purposes of the above proviso, a subscriber of a fraction of a ticket shall be deemed to be a subscriber only to the extent of such fraction.

40. *Insolvency or liquidation a bar to winding up proceedings.*—Notwithstanding anything contained in sections 38 and 39, no petition for the winding up of a chit shall be entertained by a court

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if proceedings under the law relating to insolvency for the time being in force are pending against the foreman for adjudicating him an insolvent or when the foreman is a company, if proceedings for winding up the company are pending against such company in a court.

41. *Commencement and effect of winding up order.*—An order for the winding up of a chit shall operate in favour of all the subscribers to whom amounts are due from the chit and it shall be deemed to have commenced from the time of the presentation of the application for the winding up.

42. *Injunction order.*—The court may, upon the application of the foreman or of any subscriber to whom amounts are due in respect of the chit at any time after the presentation of the application for the winding up of a chit under this Act and before the making of an order for the appointment of an Interim Receiver or for winding up the chit, restrain further proceedings in any suit or proceeding instituted against the foreman for the realization of amounts due from the chit upon such terms as the court thinks fit.

43. *Powers of court on hearing the application.*—On hearing the application, the court may dismiss it with or without costs or adjourn the hearing conditionally or unconditionally or make an interim order or any other order that it deems fit.

44. *Chit assets to vest in court for distribution.*—On the making of an order for the winding up of a chit, the entire chit assets shall vest in the court for distribution amongst the subscribers to whom amounts are due in respect of the chit and the court shall pass such orders in the matter (including the appointment of a receiver) as it dems fit.

45. *Suits stayed on winding up orders.*—When a winding up order has been made by a court, no suit or other legal proceedings shall be continued or commenced against the foreman by a subscriber for the realization of amounts due to him in respect of the chit except with the leave of the court and on such terms as the court may impose.

46. *Copy of winding up order to be filed with the Registrar.*—(1) On the making of a winding up order, it shall be the duty of the petitioner in the winding up proceedings and of the Receiver to file with the Registrar a copy of the order within one month from the date of the making of the order:

Provided that the Registrar may, upon application in writing by such petitioner or Receiver, allow, in his discretion, further time not exceeding fifteen days for the filing of any such copy.

(2) On the filing of a copy of the winding up order, the Registrar shall make an entry thereof in his books relating to the chit and shall notify in the District Gazette that such an order has been made.

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47. *Stay of winding-up proceedings on insolvency of foreman and transfer of insolvency proceedings.*—When during the pendency of the proceedings for the winding up of a chit, the foreman is adjudicated an insolvent or when the foreman is a company, the company has been ordered to be wound up by the court, the winding-up proceedings under this Act shall cease and the distribution of the chit assets shall, subject to the provisions contained in sections 34 and 42, be made by the insolvency court or the court winding up the company, as the case may be. Where insolvency proceedings against the foreman are pending in different courts, the High Court may transfer the preceedings from one court to another as it may deem fit.

48. *Compensation for frivolous or vexatious application.*—(1) When an application presented for winding up a chit is dismissed and the court is satisfied that the application is frivolous or vexatious, the court may award against the applicant such amount, not exceeding five hundred rupees, as it deems reasonable as compensation to the forman for the expense or injury occasioned to him by the aplication and the proceedings thereon and such amount may be realized as if the ward were a decree.

(2) Compensation under sub-section (1) shall bar any suit for compensation.

49. *Right of appeal.*—The foreman, any subscriber, the Receiver or any other person aggrieved by a decision or order of the court in proceedings for winding up a chit may, within two months from the date of such decision or order appeal to the High Court.

50. *Limitation.*—(1) Where an order refusing to wind up a chit has been made under this Act, the chit shall be deemed to have been under suspension form the date of the presentation of the application to the date of such order in respect of non-prized subscribers, and notwithstanding anything contained in the chit agreement, no non-prized subscriber who was not a defaulter on the date of the presentation of the application for winding up shall be deemed to be a defaulter on the date of its dismissal.

(2) Where an order refusing to wind up a chit has been made under this Act, in computing the period of limitation prescribed for any suit or other legal proceedings (other than a suit or an application in respect of which the leave of the court has been obtained) which might have been brought or instituted the period from the date of the presentation of the application to the date of the order refusing to wind up the chit shall be excluded.

(3) Nothing contained in this Act shall affect the right of the subscriber to proceed by suit or application against the foreman personally for the balance, if any, of the amount due to him after the declaration of the final divided in proceedings for winding up the chit and in computing the period of limitation prescrbed for any such suit or application, the period from the date of the presentation of the application for winding up the chit to the date of the declaration of the final dividend shall be excluded.

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CHAPTER X.

OFFICERS INSPECTION AND FEES.

51. *Appointment of Director of Chits, Inspecting Officers, Registrars and Chit Auditors.*—(1) The Government may, by notification, appoint a Director of Chits and as many Inspecting Officers and Registrars as may be necessary for the purpose of discharging the duties imposed upon the Director of Chits, the Inspecting Officers and the Registrars by or under this Act or the rules made thereunder.

(2) The Director of Chits may appoint as many Chit Auditors as may be inecessary for the purpose of discharging the duties imposed upon the Chit Auditors by or under this Act or the rules made thereunder.

(3) All Inspecting Officers, Registrars and Chit Auditors shall discharge the duties imposed upon them by or under this Act or the rules made thereunder under the general superintendence and control of the Director of Chits.

(4) If the Registrar is of the opinion that the accounts of any chit are not properly maintained and that such accounts should be audited, it shall be lawful for him to have such accounts audited by a Chit Auditor. It shall be the duty of the foreman of the chit concerned to produce before the Chit Auditor all accounts, books and other records relating to the chit, to furnish him with such information as may be required and to afford him all such assistance and facilities as may be necessary or reasonable and as may be required in regard to the audit of the accounts of the chit.

(5) The foreman shall pay to the Chit Auditor such fees as may be prescribed for the audit of the accounts of a chit under sub-section (4).

52. *Inspection of documents in the Registrar's office.*—Any person may, on payment of such fees as may be prescribed—

(i) inspect the documents kept by the Registrar; and

(ii) obtain a copy or extract of any document to be certified by the Registrar.

53. *Levy of fees.*—(1) There shall be paid to the Registrar such fees as the Government may, from time to time, prescribe for—

(*a*) the registration of the by-laws of a chit under section 3;

(*b*) the grant of a certificate of commencement under section 7;

(*c*) filing with the Registrar of the chit agreement and copies of documents under sections 11, 20, 21, 29 and 32;

(*d*) the inspection of documents under section 52;

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(*e*) the certificate, copy of or extract of documents under section 52;

(*f*) the audit of the accounts of the foreman and the issue of an audit certificate;

(*g*) such other matters as may appear necessary to give effect to the purpose of this Act.

(2) A table of fees payable under sub-section (1) shall be published in the *Fort St. George Gazette.*

CHAPTER XI.

MISCELLANEOUS.

54. *Appeals.*—(1) Any foreman aggrieved by an order of the Registrar—

(*a*) refusing to register the by-laws of a chit under sub-section (1) of section 3;

(*b*) refusing to grant a certificate of commencement under sub-section (2) of section 7;

(*c*) refusing to accept the security under clause (*a*) of sub-section (1) of section 12 or under section 23; or

(*d*) refusing to release the property charged by way of security or to order the release of the cash security or the Government securities under sub-section (4) or sub-section (5) of section 12, may, within thirty days of the communication to him of such order, appeal to the Director of Chits.

(2) Any foreman or any other person aggrieved by an order of the Registrar under sub-section (1) of section 26 or by an order of an officer empowered by the Government under sub-section (2) of that section may, within thirty days of the communication to him of such order, appeal to the Director of Chits.

(3) The Director of Chits may, after giving the appellant an opportunity of being heard, pass such orders on the appeal under sub-section (1) or sub-section (2), as he thinks fit.

55. *Power of Registrar to condone delay in certain cases.*—The Registrar may, in his discretion and upon an application in writing by any foreman made within the period of fourteen days specified in any of the provisions of sub-section (2) of section 20, sub-section (2) of section 21, section 29 and section 32, allow to the foreman further time not exceeding fifteen days to file a copy of any document under any of the provisions referred to above.

56. *Penalties.*—(1) Whoever contravenes or abets the contravention of any of the provisions of sections 3, 4 and 7 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

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(2) Any foreman—

(*a*) who does not file the chit agreement under section 6 or a copy of any document under section 11, sub-section (2) of section 20, sub-section (2) of section 21, section 29 or section 32 within the period specified for such filing or within the further time allowed under section 55 for such filing; or

(*b*) who contravenes any of the provisions of section 8, sub-sections (1) and (6) of section 12, section 14, section 15, section 16, section 20, section 21, section 22, section 23, sub-section (4) of section 25, section 29, section 35, section 36, section 37 and sub-section (4) of section 51; or

(*c*) who fails to comply with the requirements of the chit agreement regarding the date, time and place at which the chit is to be drawn;

shall be punishable with fine which may extend to one hundred rupees.

(3) Whoever in any document required by, or for purposes of, any of the provisions of this Act wilfully make a statement false in any material particular knowing it to be false, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

57. *Cognizance of offences.*—No court inferior to that of a salaried presidency magistrate or a salaried magistrate of the first-class shall try any offence under this Act.

58. *Application of fines.*—The court imposing any fine under this Act may direct that the whole or any part thereof be applied in or towards payment of the costs of the proceedings.

59. *Compounding of offences.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Central Act V of 1898), any officer empowered by the Government in this behalf may at any time on receipt of such compensation as may be fixed by such officer not exceeding such amount as may be prescribed compound any offence punishable under the foregoing provisions of this Act.

(2) On the payment of compensation under sub-section (1), no further proceedings shall be taken against the accused person and he shall be acquitted.

60. *Power to enter and search any place and to seize documents, etc.*—(1) A magistrate of the first-class in the mufassal or a presidency magistrate in the Presidency-town, may, on receiving a report from the Registrar or the Inspecting Officer appointed under sub-section (1) of section 51 that any person conducts or is responsible for the conduct of a chit in any place in contravention of the provisions of this Act, issue a warrant empowering the Registrar or the Inspecting Officer to enter such place with such assistants as he considers necessary and inspect the books, registrars, accounts

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or documents in such place. On receiving such warrant the Registrar or the Inspecting Officer may enter the place with such assistants as he considers necessary and inspect the books, registers, accounts or documents in such place and may take to his office for further investigation such books, registers, accounts and documents as he considers necessary :

Provided that if the Registrar or the Inspecting Officer removes from the place any book, register, account or document, he shall give to the person in charge of the place, a receipt describing the book, register, account or document so removed by him :

Provided further that within twenty-four hours of the removal of the books, registers, accounts and documents from the place, the Registrar or the Inspecting Officer shall either return them to the person from whose custody they were removed or produce them in the court of the magistrate who issued the warrant. Such magistrate may return the books, registers, accounts and documents or any of them to the person from whose custody they were removed by the Registrar or the Inspecting Officer, after taking from such person such security as the magistrate considers necessary for the production of the books, registers, accounts and documents when required whether by the Registrar or by the Inspecting Officer or by the court, or may pass such other orders as to their disposal as appear just and convenient to the magistrate.

(2) The Registrar or the Inspecting Officer shall have authority to require any person whose testimony he may require regarding any chit agreement to attend before him or to produce or cause to be produced any document and to examine such person on oath.

(3) The Registrar or the Inspecting Officer may apply for assistance to an officer in charge of a police station and take Police officers to accompany and assist the Registrar or the Inspecting Officer in performing his duties under this Act.

61. *Payment to be evidenced by document.*—All payments in respect of a chit whether by the foreman or by the subscriber shall be evidenced by documents in writing.

62. *Interest at more than twelve per cent not to be allowed.*—No court shall award interest on claims arising under this Act at more than twelve per cent per annum simple interest.

63. *Power of court to grant relief in certain cases.*—Nothing contained in the foregoing provisions of this Act shall affect the powers vested in a court for granting relief against any of the provisions contained in the chit agreement, if the same be unconscionable or opposed to the provisions of any law.

64. *Power to make rules.*—(1) The Government may make rules for carrying out all or any of the purposes of this Act.

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(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—

(*a*) all matters expressly required or allowed by this Act to be prescribed;

(*b*) the matters in respect of which provision shall be made in the by-laws of a chit and the procedure to be followed in making registering, altering and abrogating by-laws, and the conditions to be satisfied prior to such making, registration, alteration or abrogation;

(*c*) the particulars which every chit agreement shall contain;

(*d*) the method of valuation of grains by the Registrar in a grain chit, for the purposes of security under section 12;

(*e*) the restrictions and conditions subject to which and the manner in which, any security given by a foreman under section 12 may be changed or substituted;

(*f*) the procedure to be followed by the Registrar for the release of security given by the foreman under section 12.

(*g*) the maintenance of registers and books of accounts by the foreman, the safe custody of books, papers and documents in the Registrar's office and also for the destruction of such books, papers and documents as need no longer be kept;

(*h*) the procedure to be followed for the winding up of a chit under Chapter IX; and

(*i*) the auditing of the balance sheets and profit and loss accounts and the issue of audit certificates.

(3) (*a*) All rules made under this Act shall be published in the *Fort St. George Gazette and*, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(*b*) All notifications issued under this Act, shall, unless the year expressed to come into force on a particular day, come into force on the day on which they are published.

(4) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

65. *Recovery of amounts due from a foreman.*—All amounts due from a foreman to the Registrar or any other officer under this Act, by way of any fee or as compensation for the composition of any offence under this Act shall be recoverable as arrears of land revenue.

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66. *Act not to apply to certain chits.*—The provisions of this Act shall not apply in respect of—

(1) any chit started before the commencement of this Act, or

(2) any chit the chit amount of which or where two or more chits are started or conducted simultaneously by the same foreman, the aggregate chit amount of which does not exceed one hundred rupees.

67. *Power to exempt.*—The Government may, by notification, exempt any person or class of persons to whom or any chit for class of chits to which this Act applies from all or any of its provisions, subject to such conditions as they deem fit and may cancel or modify any such notification.

68. *Amendment of Central Act II of* 1899.—In Schedule I to the Indian Stamp Act, 1899 (Central Act II of 1899) as amended by the Indian Stamp (Madras Amendment) Act, 1958 (Madras Act XIV of 1958), for entry 20-A, the following entry shall be substituted, namely :—

" 20-A. A chit agreement, that is, an agreement relating to a chit as defined in clause (3) of section 2 of the Madras Chit Funds Act, 1961, if either such agreement is executed or the chit is conducted in the State of Madras One rupee ".

69. *Repeal and saving.*—(1) Any law corresponding to this Act in force in the transferred territory immediately before the commencement of this Act including the Travancore Chitties Act, 1120 (Travancore Act XXVI of 1120), (hereinafter in this section referred to as the corresponding law) shall stand repealed on such commencement.

(2) The repeal by sub-section (1) of the corresponding law shall not affect—

(*a*) (i) the previous operation of the corresponding law or anything done or duly suffered thereunder; or

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the corresponding law; or

(iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the corresponding law; or

(iv) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed; or

(*b*) The operation of the corresponding law in respect of chitties started before the commencement of this Act.

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(3) Subject to the provisions of sub-section (2), anything done or any action taken, including any appointment or delegation made, notification, order, instruction or direction issued, or any rule, regulation or form framed, certificate granted or registration effected. under the corresponding law shall be deemed to have been done or taken under this Act and shall continue to have effect accordingly, unless and until superseded by anything done or any action taken under this Act.

(4) Unless the context otherwise requires, the Madras General Clauses Act, 1891 (Madras Act I of 1891), shall apply for the interpretation of this Act in its application to the transferred territory.

(5) For the purpose of facilitating the application of this Act in the transferred territory, any court or other authority may construe this Act with such alteration not affecting the substance as may be necessary or proper to adopt it to the matter before the court or other authority.

(6) Any reference to the corresponding law in any law which continues to be in force in the transferred territory after the commencement of this Act shall, in relation to that territory, be construed as a reference to this Act.

Explanation.—For the purpose of this section, the expression "transferred territory" shall mean the Kanyakumari district and the Shencottah taluk of the Tirunelveli district.

70. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them to be necessary for the purpose of removing the difficulty.

(2) All orders made under sub-section (1) shall, as soon as possible, after they are made, be placed on the table of both Houses of the Legislature and shall be subject to such modifications by way of amendment or repeal as the Legislature may make either in the same session or in the next session.

